

# Preparation for GST Audit

By

## CTC-Indirect Taxes Committee.

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# Audit-Requirement

**Who is liable for audit?**

**Relevant Statutory Provisions & Analysis:**

**Section 35(5):**

“Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered Accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under subsection (2) of section 44 and such other documents in such form and manner as may be prescribed.”

# Audit-Requirement

## **Relevant Statutory Provisions & Analysis:**

### **Section 44(2):**

“Every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of section 35 shall furnish, electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.”

# Audit-Requirement

## **Relevant Statutory Provisions & Analysis:**

### **Rule 80(3):**

“Every registered person whose aggregate turnover during a financial year exceeds two crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.”

# Audit-Requirement

## **Aggregate Turnover:**

Sec 2(6) ““aggregate turnover” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess;”

# Audit-Requirement

**Aggregate Turnover to be computed on all India basis;**

Term “Aggregate Turnover” is being used in

- Sec 10 : Composition levy
- Sec 22 : Registration
- Rule 80(3) : Annual Return/Audit
- GSTR 1
- GSTR 4

“Turnover in State” separately defined in Sec 2(112)

[used in Sec 10-Composition levy & Sec 47(2)-Levy of late fee]

# Audit-Requirement

## **Inclusions in the aggregate turnover:**

- Taxable supplies
- Exempt supplies
- Exports
- Supplies to branches in other States having same PAN

## **Exclusions in the aggregate turnover:**

- Inward supplies on which tax is paid under RCM
- CGST/IGST/SGST/UTGST/Cess

# Audit-Requirement

## **Taxable Supply:**

Sec 2(108) “taxable supply” means a supply of goods or services or both which is leviable to tax under this Act;

## **Exempt Supply:**

Sec 2(47) “exempt supply” means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;

**Examples:** Sale of live animals, live fish, fresh milk, lassi, curd, vegetables, electrical energy, renting of residential dwelling for use as residence, charitable activities.



# Audit-Requirement

## **Non-Taxable Supply:**

Sec (78) “non-taxable supply” means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act;

**Examples:** Sale of petroleum products, sale of alcohol for human consumption.



Sale of land, Sale of building (Sch. III items) – Not a supply.

# Audit-Requirement

## **Aggregate turnover for the Year 2017-18?**

The GST has been implemented wef 01.07.2017. Therefore, for the financial year 2017-18, for the full year GST was not applicable. In this case whether the limit of Rs. 2 crore is applicable for this year or proportionately we need to determine? We may have to wait for the clarification from the government on this.

# Audit-Requirement

## Conclusion:

It may be summed up that the accounts of registered person whose aggregate turnover during a financial year exceeds Rs. 2 crore required to be audited. The turnover of Rs. 2 crore is to be computed including turnover in all the States/UTs (all India basis) under same PAN. It is important to note here that the threshold turnover limit of Rs. Two crore is same for assesseees in all the States and Union Territories. No separate threshold limit is specified for Special Category States. Since each State GST Acts also have the provisions relating to audit, the GST audit shall be State-wise. For the purpose of applicability only, the all India based turnover is to be considered.

# Who can do Audit?

## **Audit by a Chartered Accountant or a Cost Accountant.**

### **The Chartered Accountants Act, 1949**

Sec 2(1)(b) - a “chartered accountant” means a person who is a member of the Institute.


Sec 2(2) - a member shall be deemed to be in practice if he engages himself, for a consideration, in the specified activities, which includes *interalia* audit.


Sec 6 provides that a member cannot practice without obtaining Certificate of Practice (COP).

Thus, only a member of ICAI having COP or firm of CAs can take up the GST Audit.

# Who can do Audit?

## **Audit by a Chartered Accountant :**

 Any member in part time practice is not entitled to perform attest function. (242<sup>nd</sup> Council Meeting Resolution). For example, an employee of the CA firm can have COP, but he cannot perform attestation function. Only partners can perform attestation function.

 In case of joint audits, all the auditors will have to sign the audit report. If the auditors have different opinion, then they should issue separate audit reports. (Ref SA 299).

# Who can do Audit?

## **Audit by a Chartered Accountant :**



A chartered accountant having substantial interest (for meaning of substantial interest, refer Appendix 9 of CA Regulations 1988) in the assessee cannot take up the audit. (Clause 4 of Part I of the Second Schedule the Chartered Accountants Act, 1949)






A chartered accountant who is responsible for writing or the maintenance of books of account of the assessee should not audit such assessee (Clause (4) of Part I of the Second Schedule to the Act).



Internal auditor of an assessee cannot be appointed as his tax auditor (281st Council Meeting Resolution).

# Who can do Audit?

## Audit by a Chartered Accountant :

-  A chartered accountant should not accept the GST audit of a person to whom he is indebted for more than Rs. 10,000/-. (Chapter X of ICAI Guidelines).
-  The restrictions applicable for appointment of statutory auditor where fee for other services are more than the statutory audit fee, in case of specified entities, is not applicable GST auditors. (Chapter IX of ICAI Guidelines).
-  A chartered accountant cannot charge professional fees based on a percentage of profit or which are contingent upon the finding or the result of the professional employment. (Clause 10 of part I of the First Schedule to the CA Act, 1949).

# Who can do Audit?

## **Audit by a Chartered Accountant :**

In many cases, an assessee may be having his GST registrations in many States. The assessee may appoint single auditor for all his registered establishments. Accounts and records might have been kept in the **local language of the State**. It is suggested that in the normal course, the auditor should not accept the audit of accounts written in a language which he/his staff does not understand.



## Who can do Audit?

### **Audit by a Cost Accountant:**

With regard to appointment of a Cost Accountant as auditor also similar provisions may be applicable as per the regulations framed by Institute of Cost Accountants of India.

# Audit-Engagement

## **How to appoint an auditor?**

### **Through Board Resolution:**

In case of a company the appointment of the GST auditor should be made through a resolution of the Board of Director or by an officer of the company, if so authorized by the Board in this behalf. In case of a partnership firm or proprietary concern, the appointment can be made by a partner or the proprietor or a person authorized by the assessee.

The acceptance of appointment should also be communicated in writing to the assessee.

# Audit-Engagement

## **Communication with the previous Auditor:**

Since the GST audit is applicable for the first time for the financial year 2017-18, requirement of communication to the previous auditor does not arise. There may be a case where previously the VAT audit was done by an auditor and GST audit is given to another new auditor. Since GST Acts are separate Acts and the audit specified therein are different compared to VAT audit, there is no need to make communication to earlier VAT auditor for taking up the GST audit. Though the levy of VAT is now subsumed in GST, the VAT Acts are not yet being repealed or subsumed in GST Act. In the subsequent years, in case of change in the GST auditor, the new auditor shall make communication with the previous auditor as per the provisions of the Chartered Accountants Act, 1949.

# Audit-Engagement

## Removal of the Auditor:

In case of valid grounds for removal, the assessee may remove the GST auditor. This may arise if the auditor delays the submission of required report for an unreasonably long period. However, the auditor cannot be removed on the ground that he has given an adverse audit report. In the event an auditor has been removed without any valid grounds, the **Ethical Standards Board** of ICAI can intervene and it may direct the incoming auditor not to accept the audit assignment. The writ of the Institute will not operate if the incoming auditor is not a member of the Institute.

# Audit-Report???

Section 35(5) read with section 44(2) of the CGST Act provides that following documents shall be furnished electronically by the assessee upon conclusion of the audit;



Annual Return



Copy of the audited annual accounts.



Reconciliation statement, reconciling the value of supplies

declared in the return furnished for the financial year with the audited annual financial statement in FORM GSTR 9C.



Such other particulars, as may be prescribed.

# Audit-Report???

## Certificate Vs. Report

Para 2.2 of the Guidance Note on Audit Report and certificates for Special Purpose issued by the Institute notes the difference between the term 'certificate' and 'report' as under;

“A **Certificate** is a written confirmation of the accuracy of facts stated therein and does not involve any estimate or the opinion.”

“A **Report**, on the other hand, is a formal statement usually made after an enquiry, examination or review of specified matters under report and includes the reporting auditors opinion thereon”.

# Audit-Report???

## **Certificate Vs. Report**

Thus, where a certificate is issued, the chartered accountant shall be responsible for factual accuracy of what is stated therein. In case of report, he is responsible for ensuring that the report is based on the factual data, true and fair to the best of his knowledge and information given.



# Annual Return

## What is Annual Return?

Every registered person other than;

- ISD,
- person required to deduct TDS,
- person required to collect TCS,
- casual taxable person and
- non-resident taxable person

shall furnish annual return for every financial year electronically in the FORM GSTR-9 (composition dealer in GSTR-9A and ECO in GSTR-9B) on or before 31<sup>st</sup> December following the end of the financial year. Where assessee is required to get his accounts audited, such annual return shall be furnished after the audit.





## Copy of the Audited Annual Accounts

- In case of a company, the accounts are to be audited by the statutory auditor as per the provisions of the **Companies Act, 2013**.
- Section 44AB of the **Income Tax Act, 1961**, provides for tax audit in cases where turnover exceeds the limit specified therein.
- The threshold turnover limit specified under section 44AB of the IT Act, 1961 (Rs. 100 lacs/Rs. 50 lacs) is less than that specified in GST law. Therefore, where the GST audit is applicable, invariably the provisions of section 44AB of the IT Act, 1961 is applicable, in addition to statutory audit under Companies Act, 2013 in case of companies.
- The question here is what about the cases where statutory audit or tax audit has not been done before the due date for completing the GST audit?



## Reconciliation Statement

- Rule 80(3) provides that the reconciliation statement shall be furnished in the FORM GSTR-9C (format is yet to be notified).
- The provisions of section 44(2) requires reconciliation of figure declared in **‘return furnished for the financial year’** with the audited annual financial statement, i.e., Annual Return.
- In case of VAT audit under MVAT Act, the comparative figures of the returns filed and the figures as per the audit are required to be given. Further, there is a specific Annexure-K for reconciliation of the sales and purchase figures as per the VAT law (audit report) with that of in the audited annual accounts.

# Reconciliation Statement

Other Issues in reconciliation:

- Adjustment of discrepancies found during the audit
- Time limit for disclosing the D.Note/Cr.Note, for taking ITC.
- Difficulties in reconciliation-large entities, transactions not appearing in Financials records etc



## Such other particulars

The government is yet to prescribe the format of audit report and annexures there to. Now it is also not clear, the auditor is required to identify and report the discrepancies month-wise or annually.

# Accounts & Records

## **What are the accounts and records to be audited?**

Sec 35. (1) Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of—

- (a) production or manufacture of goods;
- (b) inward and outward supply of goods or services or both;
- (c) stock of goods;
- (d) input tax credit availed;
- (e) output tax payable and paid; and
- (f) such other particulars as may be prescribed:

# Accounts & Records

Rules 56 to 58 provides in details about the accounts to be maintained.

Rule 56 states, further to the details of accounts mentioned in Sec 35(1)

a true and correct account of

- the goods or services imported or exported or
- the supplies attracting payment of tax on reverse charge along with the relevant documents,

including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers.

## Accounts & Records

The records relating to stock of goods should contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.

## Accounts & Records

Every registered person shall keep and maintain a separate account of advances received, paid and adjustments made thereto. Every registered person shall keep the particulars of -

(a) names and complete addresses of suppliers from whom he has received the goods or services chargeable to tax under the Act;

(b) names and complete addresses of the persons to whom he has supplied goods or services, where required under the provisions of this Chapter;

(c) the complete address of the premises where goods are stored by him, including goods stored during transit along with the particulars of the stock stored therein. If any goods are found at a place other than so declared, without valid tax invoice, the same shall be treated as supply and liability to pay may arise.



## Accounts & Records

- Any entry in registers, accounts and documents shall not be erased, effaced or overwritten, and all incorrect entries, otherwise than those of clerical nature, shall be scored out under attestation and thereafter the correct entry shall be recorded and where the registers and other documents are maintained electronically, a log of every entry edited or deleted shall be maintained.
- Each volume of books of account maintained manually by the registered person shall be serially numbered.

# Accounts & Records

- Unless proved otherwise, if any documents, registers, or any books of account belonging to a registered person are found at any premises other than those mentioned in the certificate of registration, they shall be presumed to be maintained by the said registered person.
- Every registered person manufacturing goods shall maintain monthly production accounts showing quantitative details of raw materials or **services used** in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof.
- Every registered person supplying services shall maintain the accounts showing quantitative details of goods used in the provision of services, details of input services utilised and the services supplied.

## Accounts & Records

- Every registered person executing works contract shall keep separate accounts with specified contents, for works contract.
- The records under the provisions of this Chapter may be maintained in electronic form and the record so maintained shall be authenticated by means of a digital signature
- Where records are generated and maintained electronically, proper backup is to be maintained and preserved. On demand by the officers, the registered person shall give the electronic record file with the password

# Audit Programme Content

## How to prepare audit programme?

- The books of account and other related records maintained by the registered person are sufficient for the verification of the correctness, completeness and accuracy of the returns filed for the year.
- The annual return filed by the registered person reflects the correct figures and includes all the transactions effected during the year that need to be reported.
- The value of outward supplies declared in the annual return include all the outward supplies effected during the year.
- The value of inward supplies declared in the annual return include all the inwards supplies effected during the year.

# Audit Programme Content

- The transactions included / excluded from the value of supply are in accordance with the provisions of the law.
- The exemptions claimed in the annual return are in conformity with the provisions of the law.
- The amount of input tax credit determined as ineligible in accordance with the provisions of the law have been disallowed in the annual return.
- The classification of outward supplies, rate of tax applicable and computation of output tax and net tax payable as shown in the annual return is correct.
- Other information given in the return is correct and complete

# Audit Programme –Relevant Information

- ✓ General profile of the assessee
- ✓ Brief nature of the business of the assessee
- ✓ Registration details, APOB, registrations in other states
- ✓ List of accounts and records maintained and information on software used.
- ✓ Details of outward supplies, exports, supply to SEZ, tax paid under RCM, supplies without consideration etc
- ✓ Details of outward supplies involving works contracts, composite supplies, mixed supplies and continuous supplies.

# Audit Programme –Relevant Information

- ✓ Classification and rate on all outward supplies.
- ✓ Applicable provisions of place of supply of all outward supplies of the auditee.
- ✓ Applicable provisions of the time of supply of all outward supplies of the auditee.
- ✓ Transaction value, inclusions, exclusions.
- ✓ Transaction attracting Valuation Rules and its determination of value.
- ✓ Compliance of the conditions of input tax credit, proportionate credit availed, ineligible credit reversal, credit on input, input services and capital goods, payment to suppliers etc.

## Audit Programme –Relevant Information

- ✓ Details of goods sent for job work and receipt of the same. Details of job work done.
- ✓ ISD and cross charging.
- ✓ Details of exemptions claimed and compliance of the conditions therein.
- ✓ Payment of taxes
- ✓ Refunds claimed and its compliances and received.
- ✓ Departmental correspondences, notices and its compliances.
- ✓ Ratios



## Audit Programme –Other Information

- ✓ Understanding the business of the auditee.
- ✓ Speciation attention to transactions not appearing in financial records.
- ✓ Use of software for audit.

# Challenges for the year 2017-18

## What are the challenges in Audit for 2017-18?

- Computation of turnover limit for eligibility for audit.
- First quarter of the year – VAT Audit, wherever applicable. For next 3 quarters GST audit. Assessee will have to undergo multiple audits.
- Lack of clarity in the GST law.
- Frequent changes in the law, issuance of more than 300 notifications.
- Failure of the matching concept. For example, in the absence of GSTR2 and GSTR3, the recipient cannot come to know that the supplier has paid the tax and filed the return. Without tax being paid by the supplier, ITC would not be available to the recipient as per Sec 16(2). How can an auditor give his opinion on correctness of ITC claim?

## Challenges for the year 2017-18

- Complex procedural compliance under GST.
- Reliability of the audit software is not tested.
- Absence of mandatory records in most cases.
- High volume of procedural lapses and non-compliances by the assesseees, incorrect documents.
- Transitional issues, law not covering all types of transactions

# Penal Provision

## **What happens if audit is not done?**

Section 47(2) provides that in case of failure to submit the annual return within the specified time, a late fee of Rs. 100 per day during which such failure continues subject to a maximum of a quarter percent of his turnover in the State/UT

S. N.	Particulars	Relevance
1	The Chartered Accountants Act, 1949	Member, COP, CA in practice etc
2	Appendices to CA Act, 1949	Council meeting resolutions
3	Schedules to CA Act, 1949	Professional misconduct in relation to chartered accountants in practice
4	Chartered Accountants Regulations 1988	Member, COP etc
5	ICAI Guidance Note on Auditing Aspects	Guidance on various types of audits
6	Code of Ethics	Ethics to be followed while accepting and conducting the audit
7	Council General Guidelines 2008	Appointment of auditors
8	Standards on Auditing (SA)	General principles & responsibilities, risk assessment, audit conclusions and reporting.
9	Technical literature on auditing	Audit planning, Audit documentation, audit sampling, audits of specific industry etc.

**A fine is a Tax for doing wrong.**

**A tax is a Fine for doing well.**

*Thank You!*



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